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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA and ) Case No. CV 11-05097 DDP (RZx)  
PEOPLE OF THE STATE OF )  
CALIFORNIA, ex rel. )  
CALIFORNIA DEPARTMENT OF ) ORDER DENYING DEFENDANT'S MOTION  
FISH AND GAME and CALIFORNIA ) FOR RECONSIDERATION AND MOTION  
REGIONAL WATER QUALITY ) FOR INTERLOCUTORY APPEAL  
CONTROL BOARD, CENTRAL COAST )  
REGION, )  
 )  
Plaintiff, )  
 )  
v. ) [Dkt. Nos. 29, 30]  
 )  
HVI CAT CANYON, INC., f/k/a )  
GREKA OIL & GAS, INC., )  
 )  
Defendants. )  
 )

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Defendant moves for reconsideration in part of this court's  
order denying Defendant's motion to dismiss the United States'  
First Cause of Action for Violations of Section 311 of the Clean

Water Act.<sup>1</sup> (Dkt. No. 26.) Defendant contends that the court failed to consider a material fact in its denial of Defendant's Motion to Dismiss. See C.D. Cal. L.R. Specifically, Defendant argues that the court should have dismissed the First Cause of Action because some of the numerous oil spills referenced in the First Cause of Action impacted creek beds that were dry at the time of discharge. (Motion for Reconsideration at 1-2, 4.) For purposes of Section 311 of the Clean Water Act, however, harmful quantities of oil include discharges that "[c]ause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface or the water or upon adjoining shorelines. 40 C.F.R. § 110.3(b) (emphasis added). Defendant's Motion for Reconsideration is, therefore, DENIED.<sup>2</sup>

Defendant's request for certification of the "navigable waters" issue for immediate appeal is also DENIED. Even if Defendant were to succeed on appeal, several other causes of action, both federal and state, and concerning the same oil spills, would remain. Thus, an immediate appeal would not

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<sup>1</sup> Though Defendant initially moved to dismiss six causes of action alleged in the Complaint, the instant motion seeks reconsideration only with respect to the First Cause of Action.

<sup>2</sup> The Motion for Reconsideration appears to misstate the court's summary of the facts alleged in the complaint. Nevertheless, an amended Order Denying Defendant's Motion to Dismiss, clarifying the court's background summary, shall issue.

materially advance the termination of this litigation. 28 U.S.C. § 1292(b).

IT IS SO ORDERED.

Dated: January 16, 2013



Dean D. Pregerson

DEAN D. PREGERSON  
United States District Judge